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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,423	02/26/2002	John M. Spangler	01-544US	6747

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Caterpillar Inc.  
Intellectual Property Dept.  
AB 6490  
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PEORIA, IL 61629-6490

EXAMINER
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MILEF, ELDA G

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/083,423

**Applicant(s)**

SPANGLER, JOHN M.

**Examiner**

Elda Milef

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/26/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-10 in the reply filed on 2/16/2007 is acknowledged.

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The legal phrase "said" should be removed from the abstract.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-6, 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to

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particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is rejected because the meaning of the phrase "the step of establishing said second bid request includes the step of establishing said second bid request in response to said at least one of said subcomponents" is confusing. What exactly is the subcomponent doing that affects the establishment of the second bid request? Is the bid price for the subcomponent a determinant in establishing the second bid request or is the modification of bid criteria to include subcomponents a factor?

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the relationship of the limitation "integrating said component with a system, said system including a least a second component" with a method of procuring a component.

Claims 5-6, 8-10 are rejected because of their dependency to the rejected claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann et al. (hereinafter, Baumann), US Patent PG. Pub. No. 2004/0243483 in view of Moderegger et al. (hereinafter Moderegger), US PG Pub. No. 20002/0049642.

**Re claims 1,7,9,10:** Baumann discloses:

establishing a bid criteria for said component;

establishing a first bid request in response to said bid criteria; identifying at least one potential supplier for said component; submitting said bid request to said at least one potential supplier; receiving a bid response from at least one potential supplier-see para. 75 and Fig. 9;

comparing said bid response with said bid criteria; determining said bid response is undesirable in response to said comparison-see para. 59.

Furthermore, the system disclosed by Baumann can be configured to search on-line auctions for parts matching the parameters supplied by the user-see pars. 14-15. Therefore it is obvious that a determination as to the desirability of the bid must be made.

Further support for the above limitations can be found in pars. 6-7; 13-15; 88-89; 108-109; 159.

Although Baumann disclose allowing a client to revise the inquiry to include additional or different parts, and to modify the desired quantity allowing the vendor to respond to the revised inquiry and wherein this process can be repeated many times-see pars. 112; 158, Baumann do not explicitly disclose modifying said bid criteria in response to said bid response being undesirable; establishing a second bid request in response to said modified bid identifying at least one-second potential supplier; submitting said second bid request to said at least one-second potential supplier; receiving a bid response from at least one of said second potential suppliers; and selecting at least one of said second potential suppliers

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in response to said second bid response. Moderegger however, teaches a method and system for managing invitations to bid which discloses the evaluation of bids, choosing several bidders to further negotiation, requesting the revision of bids based on new information, restarting the bid process based on the subset of the original prospective bidders, receiving bids from the subset of original bidders, and informing the bidder that he/she has been awarded the contract-see pars. 54-56. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Baumann to specifically include further negotiation with a subset of original potential bidders on criteria such as price, receiving a bid, selecting a bid as taught by Moderegger in order to evaluate bid criteria and obtain the best price and specifications for the buyer.

For purposes of examination the Examiner is interpreting the last limitation of claim 7 to mean: "A system for maintaining the acquisition status of parts associated with one or more projects"-see Baumann, para. 92.

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**Re claims 2 & 4:** For examination purposes, claim 4 will be interpreted to mean establishing second bid request in response to a change in bid criteria to include subcomponents. Baumann disclose establishing a plurality of subcomponents forming at least a portion of said component and modifying bid criteria to include subcomponents-see pars. 6; 48; 64;92.

**Claim 3** has similar limitations found in claims 1 and 2 in combination and is therefore rejected using the same art and rationale.

**Re claims 5, 6:** Baumann disclose wherein the step of establishing said second bid request includes the step of a fabrication of said subcomponents-see para. 60.

**Re claim 8:** Baumann disclose wherein said bid request is an open bid request.-see para. 176; p. 16 lines 66-67 (on-line auction sites).

### **Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,564,192 (Kinney, Jr. et al.)-cited for its reference to supplier bidding auction; products such as components or materials; product defined by the buyer; identification of potential suppliers; requests for bids;



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suppliers submit bids; analysis of bids against bid criteria established by buyer; awarding contract to supplier.

US PG. Pub. No. 2003/0014287 (Williams et al.)-cited for its reference to bill of materials, suppliers including manufacturers which assemble a component from purchased sub-components. Vendors submitting bids to provide components as specified in the bill of materials.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Elda Milef  
Examiner  
Art Unit 3692

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RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER